

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TEXTRON INNOVATIONS INC., )  
                                )  
Plaintiff,                 )  
                                )  
v.                            ) Civil Action No. 05-486 (GMS)  
                                )  
THE TORO COMPANY,         )  
                                )  
Defendants.                )  
                                )

**ORDER**

WHEREAS on December 7, 2006, the parties in the above-captioned action wrote letters to the court requesting leave to file motions for summary judgment (D.I. 137, 138);

WHEREAS after reviewing the parties' respective positions on the summary judgment requests (D.I. 137, 138, 139, 140, 141, and 142), the court believes there exist several genuine issues of material fact that preclude the entry of summary judgment for either party on the issues for which they have requested leave to file motions; and

WHEREAS, the court further concludes that the record is not complete with respect to the Toro Company's ("Toro") inequitable conduct defense, because currently pending on its docket is Toro's Motion for Leave to File a Third Amended Answer and Counterclaims (D.I. 94);

**IT IS HEREBY ORDERED THAT:**

1. The plaintiff's request for leave to file a motion for summary judgment (D.I. 137) is DENIED without prejudice to its ability to renew its letter request regarding inequitable conduct after the court issues a ruling on Toro's motion to amend and the record is more complete.

2. The defendant's request for leave to file a motion for summary judgment (D.I. 138) is DENIED.
3. The summary judgment teleconference scheduled for Thursday, January 4, 2007, shall be REMOVED from the court's calendar.

Dated: January 3, 2007

/s/ Gregory M. Sleet  
UNITED STATES DISTRICT JUDGE